

REMARKS

Claims 1-21 are pending in the present application.

Claims 1-5 and 8-12 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Published Application No. 2005/0171899 to Dunn et al. ("Dunn"). In order to show that claim 1 is anticipated, the Examiner has the burden of showing that Dunn identically teaches every limitation of claim 1. The Examiner points to paragraphs [0058] and [0062] to show the recited plurality of checks including non-consumer and consumer checks, and the recited sorting of only the non-consumer checks into a first sub-file and only the consumer checks into a second sub-file. Neither these paragraphs nor any other passage from Dunn teaches such a sorting. Not only do the actual terms "consumer" and "non-consumer" fail to appear in Dunn, there is no passage in Dunn from which the sorting feature can be fairly implied. Paragraph [0062], on which the Examiner relies to show the sorting feature, reads as follows:

As shown in FIG. 7, paper checks presented for payment at a depositary or collecting bank 102 are processed by a high-speed sorting/imaging machine 300 that reads the MICR information, sorts the checks into pockets 305 depending on how the check is to be handled, and produces a digital image of the checks. The sorting is performed based on the large account table (LAT) 310, which is a data file containing routing and account numbers and an indication of how checks for each account are to be processed, e.g., whether the checks are to be truncated.

The passage states that the sorting is performed based on large account table (LAT) 310. Nevertheless, there is no support in Dunn for the notion that a sorting based on LAT 310 is the same as sorting checks into the sub-files of the claimed invention. Lat 310 is a "data file containing routing and account numbers and an indication of how checks for each account are to be processed, e.g., whether the checks are to be truncated." Nothing in this passage mentions the specific sorting of the claim, nor is there any basis for supposing that this abstractly worded teaching somehow intrinsically teaches the specific kind of sorting in the claim. Therefore, it is not the case that Dunn identically teaches every limitation in claim 1.

As for the remaining claim in this rejection, they are patentable for at least the same reasons given for claim 1.

Claims 13-15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Published Application No. 2007/0029376 to Stoutenburg et al. (“Stoutenburg”). Claim 13 recites storing consumer checks into one file and non-consumer checks into another file. Stoutenburg does not anticipate claim 13 because Stoutenburg does not teach non-consumer checks or non-consumer check procedures. Stoutenburg exclusively focuses on payments by consumers at a point-of-sale (POS) device. Stoutenburg never mentions payments by non-consumers. The Stoutenburg POS device permits a consumer to select from a plurality of payment methods: among such payments methods are credit card, debit card, money order, money transfer, and check transactions. Paragraph [0038]. Despite the variety of payment methods, however, all of them are focused on a consumer-merchant transaction.

The paragraph reads [0039] as follows:

In particular embodiments, a bidirectional printer is included with the POS device. Such a bi-directional printer is capable of printing from left to right, from right to left, and vertically in one or both directions. Such a bi-directional printing capability is useful for a number of reasons. For example, such a printer can be used to frank a check. When the check is inserted in the slip printer and/or imager vertically, it is scanned by the imager and MICR reader for content. Such a process can be accomplished once on insertion of the check into POS device 130 and then again on the exit. Then, in some cases, the slip printer prints the pay line of the check, which can include a 90 degree rotation of the print head. Once the printing is complete, the check is turned over by the clerk and placed back in slip printer and/or imager for franking the back of the check. Such franking of the back of the check can include receipt information, such as, a merchant number, a store name, a time stamp, a dollar amount, and the like.

The passage describes the versatility of a bi-directional printer with checks, but it does not describe non-consumer checks. Indeed, the “checks” mentioned here can only mean consumer checks, since consumers are the only kind of payers mentioned in Stoutenburg. For instance, Stoutenburg states that “POS peripheral terminal to be an interactive tool that allows

customers to select their preferred transaction methods....” Paragraph [0041]. The Stoutenburg system is directed to an “interaction of a customer with one or more transaction systems during an interaction with a POS device.” Paragraph [0044]. The Stoutenburg POS device is not used for accepting payments from non-consumers; merchants use it to accept payments from consumers. Paragraph [0004] (“In the sale of goods by a merchant to a customer, point-of-sale devices are used by the merchant to complete a transaction.”).

Paragraph [0180] reads as follows:

POS device 130 analyzes the payment information to identify a suitable function central control 110 to which the payment is to be directed. POS device 130 contacts the selected function central control 110, transmits the received payment information, and awaits confirmation that the payment has been accepted. Then, in some embodiments, the selected function central control transmits an acceptance of the tendered payment, along with an account balance reflecting the balance after deducting the recently tendered payment. POS device 130 can then print a receipt of the transaction indicating the received payment and/or the new account balance via printer interface 232 or printer interface 256.

The “payment information” that the POS device 130 analyzes is described in paragraph [0176]:

In some embodiments, ***a customer can pay a number of bills in a single transaction. In such cases, the various accounts and payments are entered into POS device 130.*** The total amount of payments can be aggregated by POS device 130 including transaction fees, if any, and an amount to cover the aggregated payments tendered from the customer. In some embodiments, only a single function central control 110 is contacted to complete the payment transaction. Thus, for example, ***all of the payment information can be transmitted from POS device 130 to network processor 732 and host 733.*** Host 733 then desegregates all of the payment information, and debits and credits the proper credit accounts via deposit maintenance network 650 and/or credit maintenance network 660.

The “payment information” mentioned in paragraph [0180] is thus exclusively consumer-related payment information. Therefore, the POS device analyzes the payment information provided by a customer not to determine whether any of it pertains to a non-consumer check, but to determine the mode of payment that the consumer wishes to use, including payment by check.

Thus, the Stoutenburg system is exclusively for allowing a customer to select the way he will pay his debts. At a POS device in a store, a consumer can choose to pay with a credit card, a money order, a check, or a money transfer. The Stoutenburg system integrates these disparate payment methods into a unified process: by detecting the kind of payment information entered by a user, the Stoutenburg POS device forwards the information to the appropriate transaction system. If a consumer chooses to pay with a credit card, the POS device detects this selection and forwards the payment information to a remote transaction system for processing credit card payment. The POS device would have forwarded the payment information to a different transaction system had the consumer chosen to pay with a check. What is common to all these payment modes is that every one involves a consumer paying a debt to a merchant. None involves non-consumer checks. Indeed, the Examiner does not cite even one portion of Stoutenburg that expressly identifies a check as non-consumer. Since the exclusive focus of Stoutenburg is on payments by consumers to merchants, every mention of checks in Stoutenburg must be regarded as a consumer check. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 6 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dunn in view of Stoutenburg. Applicants respectfully submit that these claims are patentable for the same reasons given above.

In the Final Office Action, the Examiner attempts to rebut the above arguments by stating the following:

The claim limitation refers to consumer and non-consumer checks and in so doing, all possible checks are included. The use of the words consumer and non-consumer does not render this application novel. The device [sic], method and process used for sorting checks is the same for both consumer and non-consumer checks. The same device [sic], method and process is also used and applied in the cited prior art. Dunn makes it very clear that an electronic system is used to read the account number, routing transit number, and dollar amount and check number from the magnet ink character recognition information printed on

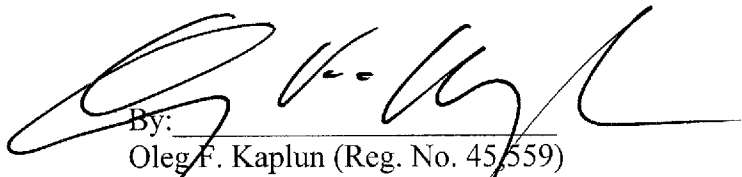
the check. It is this information and process that Dunn [0007] [0062] [0016] [0057] [0058] [0074] and Stoutenburg [0078] cites in the prior art, that is used to sort and determine the consumer and non-consumer checks the applicant refers to.

Final Office Action at pages 11-12. To be clear, Applicants are not basing the novelty of the claimed invention on the mere “use of the words consumer and non-consumer.” That is a mere caricature that merits no further response. The patentability of the claimed invention is based on the particular sorting performed by the claimed invention, in which the checks are sorted so that only consumer checks are sorted into one sub-file and non-consumer checks are sorted into another sub-file. Nothing in the attempted rebuttal offered by the Examiner refutes the argument that neither Dunn nor Stoutenburg teaches such a sorting. The Examiner asserts that by reciting consumer and non-consumer checks, the claim covers all possible checks. Even if that were true, it does not follow from this that a prior art reference that pertains to the processing of both kinds of checks must inherently teach the sorting recited in the claim. Nor can it be reasonably argued that the mere fact that Dunn or Stoutenburg teaches the reading of certain magnetic ink information means that the particular sorting recited in the claims is met by these references. The Examiner cites to several paragraphs of Dunn and one of Stoutenburg. Presumably, these paragraphs, in the mind of the Examiner, best represents the invention recited in the claims. If that truly were the case, then it should not be so difficult to lift an exact quote from these paragraphs that identically teaches the sorting done by the claimed invention. Yet the Examiner has chosen not to do this, since no such identical teaching is to be found in either those paragraphs cited by the Examiner or any other paragraph. The only other way that a teaching of the claimed sorting can be rightfully said to be present in these references is through inherency, yet the Examiner has not put forward either an argument or evidence that demonstrates that the sorting recited in the claims necessarily would have been part of the check processing performed by the Dunn or Stoutenburg systems. Simply put, the references do not go as far as the Examiner would like them to. Since the evidence presented against the claims falls short of a *prima facie* case of unpatentability, the claims ought to be allowed.

All issues having been addressed, Applicants submit that this application is in condition for allowance.

Respectfully submitted,

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